

AMENDED IN SENATE AUGUST 31, 2007

AMENDED IN SENATE AUGUST 1, 2007

AMENDED IN SENATE JUNE 19, 2007

AMENDED IN ASSEMBLY JUNE 1, 2007

AMENDED IN ASSEMBLY APRIL 17, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 739

Introduced by Assembly Member Laird
(Coauthors: Assembly Members Huffman, Jones, and Levine)

February 22, 2007

An act to add Sections 5096.827.2, 5096.827.3, 75050.2, and 75050.4 to the Public Resources Code, and to add Sections 13383.7 and 13383.8 to the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

AB 739, as amended, Laird. Stormwater discharge.

~~(1) Under~~

Under existing law, the State Water Resources Control Board and the California regional water quality control boards prescribe waste discharge requirements for the discharge of stormwater in accordance with the national pollutant discharge elimination system (NPDES) permit program established by the federal Clean Water Act and the Porter-Cologne Water Quality Control Act (state act).

The Safe Drinking Water, Water Quality and Supply, Flood Control, River, and Coastal Protection Bond Act of 2006 (initiative bond act) authorizes the issuance of bonds in the amount of \$5,388,000,000. The

Disaster Preparedness and Flood Prevention Bond Act of 2006 authorizes the issuance of bonds in the amount of \$4,090,000,000 for the purposes of financing a disaster preparedness and flood prevention program.

This bill would require the Department of Water Resources to develop project selection and evaluation guidelines to implement a specified stormwater flood management grant program financed by the Disaster Preparedness and Flood Prevention Bond Act of 2006. The bill would provide that the design and construction of projects for ~~specified~~ combined municipal sewer and stormwater systems are eligible for financing under that grant program. The bill would require the state board to develop project selection and evaluation guidelines for the allocation of funds made available by the initiative bond act for a stormwater contamination prevention and reduction program. The bill would provide for the expenditure of those funds, upon appropriation, for specified projects. The bill would require the state board ~~to coordinate with~~ and the department *to consult with each other, as necessary*, with regard to the development of project selection and evaluation guidelines for various programs involving stormwater management that are financed by the initiative bond act or the Disaster Preparedness and Flood Prevention Bond Act of 2006. The state board would be required, no later than July 1, 2009, to develop a comprehensive ~~framework~~ *guidance document* for evaluating and measuring the effectiveness of municipal stormwater management programs undertaken, and permits issued, in accordance with the NPDES permit program and the state act. The state board and the regional boards would be required to ~~establish~~ *refer to the guidance document when establishing* requirements in municipal stormwater programs and permits for evaluation and reporting on program effectiveness. ~~By establishing requirements on municipal stormwater dischargers, the bill would impose a state-mandated local program.~~ The bill would require the state board to appoint a stormwater management task force comprised of public agencies and nonprofit organizations, and to submit a specified report on polluted runoff control to the Ocean Protection Council no later than January 1, 2009, and annually thereafter.

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~yes~~-no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) The federal Clean Water Act requires the regulation of
4 stormwater discharges under the national pollutant discharge
5 elimination system (NPDES) permit program. The State Water
6 Resources Control Board and the California regional water quality
7 control boards have been designated by the United States
8 Environmental Protection Agency to implement the NPDES
9 stormwater program.

10 (b) Polluted runoff, including stormwater discharges, is
11 generated by runoff from land and impervious areas such as paved
12 streets, parking lots, and building rooftops during both dry and
13 wet months. Stormwater discharges often contain pollutants in
14 quantities that could adversely affect water quality. Stormwater
15 discharges can also accelerate stream erosion, causing increased
16 sedimentation downstream, loss of flood conveyance capacity,
17 and increased flood damage risk.

18 (c) The State Water Resources Control Board and the California
19 regional water quality control boards, in their 2001 strategic plan,
20 indicate that polluted runoff is the leading cause of water quality
21 problems in the state. The United States Environmental Protection
22 Agency considers urban stormwater pollution a serious source of
23 pollution in the waters of the United States.

24 (d) The State Water Resources Control Board's Resolution No.
25 2000-0006, dated January 2005, which adopted sustainability as
26 a core value for all activities and programs, supports sustainable
27 practices related to water quality and water supply, including, but
28 not limited to, low-impact development that seeks to maintain
29 predevelopment runoff rates and volumes. Low-impact
30 development includes specific techniques such as reducing the
31 amount of impermeable surfaces and increasing infiltration.

32 (e) The State Water Resources Control Board and the
33 Department of Water Resources should coordinate applicable
34 financial assistance programs to maximize public benefits and
35 leverage local and federal funding.

(f) The State Water Resources Control Board should provide state oversight regarding the NPDES stormwater program, including guidance, priorities, policy direction, technical assistance, and evaluation of program effectiveness.

SEC. 2. Section 5096.827.2 is added to the Public Resources Code, to read:

5096.827.2. (a) The department shall develop project selection and evaluation guidelines to implement Section 5096.827. The State Water Resources Control Board shall advise the department on the water quality portions of the guidelines, relying as appropriate on the stormwater guidelines developed by the State Water Resources Control Board pursuant to Section 75050.2.

(b) The guidelines shall include a provision that gives preference to a project that reduces flood damages for which one or both of the following applies:

(1) The project is not receiving state funding for flood control or flood prevention projects pursuant to Section 5096.824 or Section 75034.

(2) The project provides multiple benefits, including, but not limited to, water quality improvements, ecosystem benefits, reduction of instream erosion and sedimentation, and groundwater recharge.

SEC. 3. Section 5096.827.3 is added to the Public Resources Code, to read:

5096.827.3. Consistent with the requirements of Sections 5096.827 and 5096.827.2, the design and construction of projects for combined municipal sewer and stormwater systems ~~that do either of the following~~ are eligible for financing under Section 5096.827.:

~~(a) Address water quality improvements or climate change-induced surface water rise, particularly in low-lying and low-income areas, or both.~~

~~(b) Enhance the capacity of the collection systems by providing stormwater treatment or preventing surface water backflow into the combined municipal sewer and stormwater systems, or both.~~

SEC. 4. Section 75050.2 is added to the Public Resources Code, to read:

75050.2. (a) The state board shall develop project selection and evaluation guidelines for the allocation of funds made available pursuant to subdivision (m) of Section 75050. Upon appropriation,

1 the funds shall be available for matching grants to local public
2 agencies, not to exceed five million dollars (\$5,000,000) per
3 project, for projects to achieve any of the following purposes in
4 accordance with the requirements of that subdivision:

5 (1) Complying with total maximum daily load requirements
6 established pursuant to Section 303(d) of the Clean Water Act (33
7 U.S.C. Sec. 1313(d)) and this division where pollutant loads have
8 been allocated to stormwater, including, but not limited to, metals,
9 pathogens, and trash pollutants.

10 (2) Assistance in implementing low-impact development and
11 other onsite and regional practices, on public and private lands,
12 that seek to maintain predevelopment hydrology for existing and
13 new development and redevelopment projects. Projects funded
14 pursuant to this paragraph shall be designed to infiltrate, filter,
15 store, evaporate, or retain runoff in close proximity to the source
16 of water.

17 (3) Implementing treatment and source control practices to meet
18 design and performance standard requirements for new
19 development.

20 (4) Treating and recycling stormwater discharge.

21 ~~(5) Improving the ability of combined municipal sewer and~~
22 ~~stormwater systems to address water quality improvements or~~
23 ~~climate change-induced surface water rise, particularly in low-lying~~
24 ~~and low-income areas, or both, and enhancing the capacity of the~~
25 ~~collection systems by providing stormwater treatment or preventing~~
26 ~~surface water backflow into the combined municipal sewer and~~
27 ~~stormwater systems, or both.~~

28 *(5) Implementing improvements to combined municipal sewer*
29 *and stormwater systems.*

30 (6) Implementing best management practices, and other
31 measures, required by municipal stormwater permits issued by a
32 California regional water quality control board or the state board.

33 (7) Assessing project effectiveness, including, but not limited
34 to, monitoring receiving water quality, determining pollutant load
35 reductions, and assessing improvements in stormwater discharge
36 water quality.

37 (b) (1) For the purpose of implementing subdivision (a), the
38 state board shall give preference to a project that does one or more
39 of the following:

40 (A) Supports sustained, long-term water quality improvements.

1 (B) Is coordinated or consistent with any applicable integrated
2 regional water management plan.

3 (2) The allocation of funds pursuant to this section shall be
4 consistent with water quality control plans and Section 75072.

5 SEC. 5. Section 75050.4 is added to the Public Resources Code,
6 to read:

7 75050.4. The state board ~~shall coordinate with the department~~
8 *and the department shall consult with each other, as necessary,*
9 with regard to the development of project selection and evaluation
10 guidelines for the following financial assistance programs that are
11 ~~directed in whole or part, in whole or in part,~~ for municipal
12 stormwater management, to avoid duplication and maximize water
13 quality benefits:

14 (a) Section 5096.827.

15 (b) Subdivision (a) of Section 75026.

16 (c) Subdivision (m) of Section 75050.

17 (d) Subdivision (a) of Section 75060.

18 SEC. 6. Section 13383.7 is added to the Water Code, to read:

19 13383.7. (a) No later than July 1, 2009, the state board shall
20 develop a comprehensive ~~framework~~ *guidance document* for
21 evaluating and measuring the effectiveness of municipal
22 stormwater management programs undertaken, and permits issued,
23 in accordance with Section 402(p) of the Clean Water Act (33
24 U.S.C. Sec. 1342(p)) and this division.

25 (b) For the purpose of implementing subdivision (a), the state
26 board shall promote the use of quantifiable measures for evaluating
27 the effectiveness of municipal stormwater management programs
28 and provide for the evaluation of, at a minimum, all of the
29 following:

30 (1) Compliance with stormwater permitting requirements,
31 including all of the following:

32 (A) Inspection programs.

33 (B) Construction controls.

34 (C) Elimination of unlawful discharges.

35 (D) Public education programs.

36 (E) Adoption and enforcement of requirements for new
37 development and redevelopment, including design standards,
38 treatment and source controls, and ~~low-impact~~ *low-impact*
39 development practices.

40 (2) Reduction of pollutant loads from pollution sources.

1 (3) Reduction of pollutants or stream erosion due to stormwater
2 discharge.

3 (4) Improvements in the quality of receiving water in accordance
4 with water quality standards.

5 ~~(e) Consistent with the framework adopted by the state board~~
6 ~~and with federal law, the state board and the regional boards shall~~
7 ~~establish requirements in municipal stormwater programs and~~
8 ~~permits for evaluating and reporting on program effectiveness.~~

9 *(c) The state board and the regional boards shall refer to the*
10 *guidance document developed pursuant to subdivision (a) when*
11 *establishing requirements in municipal stormwater programs and*
12 *permits.*

13 SEC. 7. Section 13383.8 is added to the Water Code, to read:

14 13383.8. (a) The state board shall appoint a stormwater
15 management task force comprised of public agencies and nonprofit
16 organizations with expertise in water quality and stormwater
17 management. The task force shall provide advice to the state board
18 on its stormwater management program that may include, but is
19 not limited to, program priorities, funding criteria, project selection,
20 and interagency coordination of state programs that address
21 stormwater management.

22 (b) The state board shall submit a report, including, but not
23 limited to, stormwater and other polluted runoff control
24 information, to the Ocean Protection Council no later than January
25 1, 2009, and annually thereafter, on the way in which the state
26 board is implementing the priority goals and objectives of the
27 council's strategic plan.

28 ~~SEC. 8. No reimbursement is required by this act pursuant to~~
29 ~~Section 6 of Article XIII B of the California Constitution because~~
30 ~~this act implements a federal law or regulation and results only in~~
31 ~~costs mandated by the federal government, within the meaning of~~
32 ~~Section 17556 of the Government Code.~~